

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X	
	:
COSTUX CORP., d/b/a TRIAD BOATWORKS,	:
	:
Plaintiff,	:
	:
v.	:
	:
GEORGE T.J. WALKER,	:
	:
	:
Defendant.	:
-----X	

CIVIL ACTION NO.
04-CV-10483 (RGS)
IN ADMIRALTY

**APPLICATION FOR DEFAULT JUDGMENT
AND TAXATION OF COSTS**

TO THE CLERK OF THE ABOVE-NAMED COURT:

NOW COMES plaintiff, Costux Corp., d/b/a Triad Boatworks, and, by its attorneys, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure, hereby requests that default judgment enter against defendant, George T.J. Walker, in the amount of \$10,938.88, together with costs in the amount of \$210.20, as provided by law.

In support of this application, plaintiff states the following reasons:

1. Upon plaintiffs' application, a default entered against defendant on April 22, 2004;
2. As shown in the accompanying Affidavit of Peter E. Costa, which is attached hereto and marked as "**Exhibit A**," the total amount of damages due to plaintiff from said defendant is \$10,938.88, exclusive of costs.
3. As shown in the accompanying Affidavit of Peter E. Costa, which is attached hereto and marked as "**Exhibit A**," plaintiff necessarily incurred costs in the total amount of \$210.20.

4. As shown in the accompanying Affidavit of Norman A. Peloquin, II, the undersigned counsel herein, which is attached hereto and marked as “**Exhibit B**,” said defendant is neither an infant or incompetent person; nor is he in the military service of the United States or its Allies, as defined in the Soldiers and Sailors Relief Act of 1940, as amended.

WHEREFORE, pursuant to Rule 55(b)(1) of the Federal Rules of civil Procedure, plaintiff, Costux Corp., d/b/a Triad Boatworks, hereby makes application that default judgment enter against defendant, George T.J. Walker, in the amount of their liquidated damages, to wit: \$11,149.08, including costs in the aforesaid amount.

Dated: April 28, 2004

COSTUX CORP., d/b/a TRIAD BOATWORKS,
By its attorneys,

NORMAN A. PELOQUIN, II, P.C.

/s/ Norman A. Peloquin, II
Norman A. Peloquin II
(BBO Bar No. 550872)
Morad Building, 460 County Street
New Bedford, MA 02740-5107
Tel. (508) 991-2300; Fax (508) 991-8300

Certificate of Compliance

I hereby certify that on the 28th day of April, 2004, that I conferred with defendant, George T.J. Walker, prior to commencement of this litigation in an attempt to resolve or narrow the issues presented herein in compliance with the provisions of Local Rule 7.1. Said defendant has not assented hereto.

/s/ Norman A. Peloquin, II
Attorney-at-Law

Certificate of Service

I hereby certify that on the 28th day of April, 2004, I served a true copy of the foregoing document upon defendant by first class mail, postage prepaid, to: George T.J. Walker, 639 Point Road, Marion, Massachusetts 02738.

/s/ Norman A. Peloquin, II
Attorney-at-Law

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS-----X
COSTUX CORP., d/b/s TRIAD BOATWORKS, :

Plaintiff, :

v. :

GEORGE T.J. WALKER, :

Defendant. :
-----XCIVIL ACTION NO.
04-CV-10483 (RGS)
IN ADMIRALTYAFFIDAVIT IN SUPPORT OF APPLICATION FOR
DEFAULT JUDGMENT AND TAXATION OF COSTS

TO THE CLERK OF THE ABOVE-NAMED COURT:

Peter E. Costa certifies under the penalty of perjury pursuant to 28 USC §1746 as follows:

1. I am Peter E. Costa, President of plaintiff, Costux Corp., d/b/s Triad Boatworks, 4 Fairhaven Road, Post Office Box 1148, Mattapoisett, Massachusetts 02739 (hereinafter referred to as "Triad").
2. I have read the Application for Default Judgment and Taxation of Costs herein and know the contents thereof, and the same are true to the best of my knowledge, information and beliefs. The source of my knowledge, and the basis for my beliefs, is the information contained in the business records of plaintiff, as well as my own personal involvement with the repairs to defendant's vessel and the collection of the underlying debt in this matter.
3. At all time material hereto, Triad did, and still does, business as a marine repair and storage facility. Triad's primary business is the care and restoration of recreational wooden vessels.

04/27/2004 TUE 11:01 FAX 508 991 8300

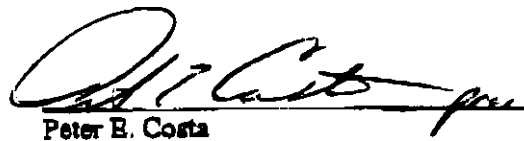
LAW OFFICE N.A. PELOQUIN

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4. Upon information and belief, defendant, George T.J. Walker, owns the vessel MISS HARBOR FRONT, a 38-foot wooden power boat built by Matthews Company in 1936 (hereinafter referred to as "Vessel").
5. In or about the Summer of 2002, Mr. Walker entered into an oral agreement with Triad whereby Triad agreed to perform work and furnish labor and materials to defendant in connection with the restoration of the Vessel.
6. Mr. Walker agreed to compensate Triad for its services.
7. Pursuant to our agreement, Mr. Walker delivered possession of the Vessel to Triad, and the Vessel has been, and remains laid up at Triad's facility in Mattapoisett.
8. Thereafter, pursuant to the agreement, Triad performed certain work and supplied labor, materials and/or services to the Vessel for the account of Mr. Walker.
9. Triad issued periodic invoices and statements detailing the work performed and the services provided to the Vessel.
10. Mr. Walker has refused to pay Triad's invoices for all work and storage performed since the Summer of 2002, including continuing storage charges through the date hereof.
11. As shown in the attached statement, as of March 31, 2004, Triad is owed the sum of \$10,938.88 for the past work and continued storage of the Vessel since 2002, no part of which has been paid although duly demanded.
12. In addition to the above, Triad has incurred the following costs in the total sum of \$210.20 in connection with the prosecution of this action: (i) \$150.00 filing fee payable to the Clerk, United States District Court; and (ii) \$60.20 service of process fee payable to the Plymouth County Sheriff's Department. The foregoing charges are true and correct, and were necessarily incurred by Triad, and the aforesaid services charged were actually and necessarily performed as herein stated.

13. Mr. Walker has neither contacted Triad since the Summer of 2002; nor has he attempted to reclaim possession of the Vessel.
14. I have been employed as a master carpenter of wooden vessels for approximately 26 years. I have also served as a court-appointed expert witness. I have reviewed the underlying invoices which are based upon our customary labor and storage rates, and in my opinion, the charges are fair and reasonable.

I certify under the penalty of perjury pursuant to 28 USC §1746 that the foregoing is true and correct on this 27th day of April, 2004.



Peter E. Costa

Costux Corp., d/b/a Triad Boatworks
4 Fairhaven Road
P.O. Box 1148
Mattapoisett, MA 02739
Tel. (508) 758-4224

TRIAD BOATWORKS

Care & Restoration of Fine Vessels

4 Fairhaven Road P.O. Box 1148 Mattapoisett, Massachusetts 02739 • Phone (508) 758-4224 Fax (508) 758-3882

Statement

TO:

GEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

DATE

3/31/2004

AMOUNT DUE

\$10,938.88

DATE	TRANSACTION	AMOUNT	BALANCE		
12/31/1999	Balance forward		0.00		
	SUMMER 2001-				
06/15/2001	PMT #001345 - On Account	-2,000.00	-2,000.00		
07/09/2001	INV #10538	6,809.83	4,809.83		
08/15/2001	PMT #001501 - Payment - Inv. #10538	-4,809.83	0.00		
09/25/2001	INV #10574	90.00	90.00		
10/22/2001	PMT #001721 - Payment - Inv. #10574	-90.00	0.00		
	SUMMER 2002-				
09/30/2002	INV #10853	1,310.54	1,310.54		
03/31/2003	INV #FC 144 - Finance Charge	98.24	1,408.78		
07/31/2003	INV #FC 150 - Finance Charge	78.85	1,487.63		
10/31/2003	INV #FC 177 - Finance Charge	59.46	1,547.09		
02/03/2004	INV #FC 195 - Finance Charge	61.40	1,608.49		
03/31/2004	INV #FC 211 - Finance Charge	36.84	1,645.33		
	SUMMER 2003-				
07/31/2003	INV #11057 - Storage - Summer 2003	285.00	1,930.33		
10/31/2003	INV #FC 178 - Finance Charge	12.93	1,943.26		
02/03/2004	INV #FC 196 - Finance Charge	13.35	1,956.61		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	AMOUNT DUE
255.66	0.00	426.10	0.00	10,257.12	\$10,938.88

Past due accounts are subject to a finance charge by a "PERIODIC RATE" of 1 1/2% per month. APR 18%

TRIAD BOATWORKS

Care & Restoration of Fine Vessels

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Statement

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GEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

DATE

3/31/2004

AMOUNT DUE

\$10,938.88

DATE	TRANSACTION	AMOUNT	BALANCE
03/31/2004	INV #FC 212 - Finance Charge	8.01	1,964.62
	WINTER 2003-		
10/31/2002	INV #10899 - Storage 2002-2003	570.00	2,534.62
12/31/2002	INV #10935	6,157.46	8,692.08
01/21/2003	CREDMEM #10953	-570.00	8,122.08
01/31/2003	INV #10968	597.22	8,719.30
03/31/2003	INV #FC 145 - Finance Charge	199.57	8,918.87
07/31/2003	INV #FC 151 - Finance Charge	406.39	9,325.26
10/31/2003	INV #FC 179 - Finance Charge	306.46	9,631.72
02/03/2004	INV #FC 197 - Finance Charge	316.45	9,948.17
03/31/2004	INV #FC 213 - Finance Charge	189.87	10,138.04
	WINTER 2004-		
10/31/2003	INV #11142 - STORAGE	745.00	10,883.04
02/03/2004	INV #FC 198 - Finance Charge	34.90	10,917.94
03/31/2004	INV #FC 214 - Finance Charge	20.94	10,938.88
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Past due accounts are subject to a finance charge by a "PERIODIC RATE" of 1 1/2% per month. APR 18%

TRIAD BOATWORKS**BOAT FILE CO.** Care & Restoration of Fine Vessels

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BILL TO

GEORGE WALKER
C/O SOUTHCOST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

Invoice

DATE	INVOICE #
9/30/2002	10853

TERMS	PROJECT	BOAT NAME
Net 30	SUMMER 2002	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
PROGRESS BILLING:		
HAUL:		
TOTAL LABOR 1.75 HOURS @ \$50.00/HOUR		87.50
Assist with boat after haul.		
TRUCKING: Haul boat at Fairhaven ramp and transport to Triad yard.		308.75
STRIP TOPSIDES:		
TOTAL LABOR 5 HOURS @ \$50.00/HOUR		250.00
Strip paint off topsides in preparation for planking work. Seal stripped areas.		
Materials associated with stripping and sealing topsides.		37.42T
CARPENTRY:		
TOTAL LABOR 12.5 HOURS @ \$50.00/HOUR		625.00
Deconstruct bulkhead for engine removal; store disassembled pieces.		
MASS Sales Tax 5%		1.87
WE ARE GLAD TO HAVE YOU WITH US!		
Total		\$1,310.54

VISIT OUR WEBSITE @ WWW.TRIADBOAT.COM

TRIAD BOATWORKS**BOAT FILE**

Care & Restoration of Fine Vessels

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Invoice**BILL TO**

GEORGE WALKER
 C/O SOUTHCOAST EXPRESS, INC.
 110 MIDDLE STREET
 FAIRHAVEN, MA 02719

DATE**INVOICE #**

10/31/2002

10899

TERMS	PROJECT	BOAT NAME
Net 30	WINTER 2003	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
OUTDOOR STORAGE FOR WINTER 2002-2003		570.00
THANK YOU.		Total \$570.00

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Invoice**BILL TO**

GEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

DATE

INVOICE #

12/31/2002

10935

TERMS	PROJECT	BOAT NAME
Net 30	WINTER 2003	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
PROGRESS BILLING:		
CARPENTRY:		
TOTAL LABOR 34 HOURS @ \$50.00/HOUR		1,700.00
Clean engine room for access to engines. Remove batteries and holding tank. Assist with removing engine. Clear items from cockpit. Store removed materials from main cabin.		
MECHANICAL SYSTEMS:		
TOTAL LABOR 23 HOURS @ \$50.00/HOUR		1,150.00
Assess engine removal. Drain coolant from engine. Shut off fuel valves. Disconnect engine and remove all bolt-on parts. Remove as much standing oil in bilge as possible with 3M oil rags. Lift engine with crane. Remove from boat. Reassemble engine mounts and brackets. Set engine on 3M oil rags to absorb leaking oil. (Oilpan rotted) Remove all saturated oil rags; add several gallons of bilge cleaner to emulsify oil, flush and clean several times. Remove engine drip pan; degrease and clean again. Pick up engine with forklift. Move under cover; place on blocks with drip pan and 3M oil rags underneath to catch spillage. Rain water in bilge. Oil leaching out of wood. Degrease and pump out. Drain potable water tank. Pump 3 gal. non-toxic through 2 sinks and shower. Pump 1 gal. through head and vacuum tank. Holding tank full (approx. 48 gals.) Pump holding tank with pump-out truck. By-pass hot water heater and drain. Disconnect holding tank vent. Filter clogged, not allowing pumpout. Flush holding tank with hose and pump then flush again and pump. Add non-toxic to deck pump out and flush 1 more gallon through head.		
Materials associated with winterizing and removing engine.		52.16T
CRANE SERVICE: Remove engine from Miss Harbor Front and set on pallet.		103.25
PUMP-OUT TRUCK: Sewerage removal from holding tank.		75.00
HAPPY NEW YEAR FROM EVERYONE AT TRIAD.		Total

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110 MIDDLE STREET
FAIRHAVEN, MA 02719

Invoice

DATE	INVOICE #
12/31/2002	10935

TERMS	PROJECT	BOAT NAME
Net 30	WINTER 2003	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
Materials associated with cleaning engine.		10.43T
TRUCKING: Move boat into building to continue work after engine removal.		167.20
STRIP PAINT:		
TOTAL LABOR 55.75 HOURS @ \$50.00/HOUR		2,787.50
Strip port side. Raise boat for access to bottom. Strip starboard side.		
Materials associated with stripping paint, including paint stripper.		103.61
MASS Sales Tax 5%		8.31
HAPPY NEW YEAR FROM EVERYONE AT TRIAD.		
Total		\$6,157.46

TRIAD BOATWORKS

Care & Restoration of Fine Vessels

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BILL TO

GEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

Invoice

DATE	INVOICE #
1/31/2003	10968

TERMS	PROJECT	BOAT NAME
Due on receipt	WINTER 2003	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
PROGRESS BILLING: MECHANICAL WORK: TOTAL LABOR 1 HOUR @ \$50.00/HOUR Remove fuel before commencing work.		50.00
STRIP BOTTOM: Materials associated with stripping and sanding bottom for plank work, not previously billed.		86.88
COVER BOAT: TO COVER - 38' @ \$12.00/ft. Cover boat indoors for move outside. Move boat out of building and complete covering to secure for outside storage.		456.00
MASS Sales Tax 5%		4.34
WISHING YOU FAIR WINDS IN 2003.		Total
		\$597.22

VISIT OUR WEBSITE @ WWW.TRIADBOAT.COM

TRIAD BOATWORKS**BOAT FILE COPY***Certified mail*
Care & Restoration of Fine Vessels

4 Fairhaven Road P.O. Box 1148 Mattapoisett, Massachusetts 02739 • Phone (508) 758-4224 Fax (508) 758-3882

BILL TOGEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719**Invoice**

DATE	INVOICE #
7/31/2003	11057

TERMS	PROJECT	BOAT NAME
Due on receipt	SUMMER 2003	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
OUTDOOR STORAGE FOR SUMMER 2003		285.00
MASS Sales Tax 5%		0.00
THANK YOU.		Total \$285.00

VISIT OUR WEBSITE @ WWW.TRIADBOAT.COM

TRIAD BOATWORKS

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BILL TO

GEORGE WALKER
C/O SOUTHCOAST EXPRESS, INC.
110 MIDDLE STREET
FAIRHAVEN, MA 02719

Invoice

DATE	INVOICE #
10/31/2003	11142

TERMS	PROJECT	BOAT NAME
Due on receipt	WINTER 2004	MISS HARBOR FRONT
DESCRIPTION		AMOUNT
OUTDOOR STORAGE FOR WINTER 2003-2004		570.00
MOVE BOAT: In-yard move to long term storage		175.00
THANK YOU.		Total
VISIT OUR WEBSITE @ WWW.TRIADBOAT.COM		\$745.00

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

-----X	
COSTUX CORP., d/b/a TRIAD BOATWORKS,	:
	:
Plaintiff,	:
	:
v.	:
	:
GEORGE T.J. WALKER,	:
	:
Defendant.	:
-----X	

CIVIL ACTION NO.
04-CV-10483 (RGS)
IN ADMIRALTY

MILITARY AFFIDAVIT

TO THE CLERK OF THE ABOVE-NAMED COURT:

I, Norman A. Peloquin, II, attorney for plaintiff, Costux Corp., d/b/a Triad Boatworks, state upon my own knowledge, information and belief, that defendant, George T.J. Walker, is not in the military service of the United States or its Allies, as defined in Article I of the Soldiers and Sailors Relief Act of 1940, as amended, nor is he an infant or an incompetent person.

I certify under the penalty of perjury pursuant to 28 USC §1746 that the foregoing is true and correct on this 28th day of April, 2004.

/s/ Norman A. Peloquin, II
Norman A. Peloquin II
(BBO Bar No. 550872)
NORMAN A. PELOQUIN, II, P.C.
Morad Building, 460 County Street
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